

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MARCH, 2022

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.12880 OF 2021 (GM-FOR)

BETWEEN:

1. SRI. MUTHANNA MAPANGADA
AGED ABOUT 50 YEARS,
S/O LATE THIMMAIAH,
RESIDING AT CHOWDIGUDI ESTATE,
BALALE HOBLI, KODAGU DISTRICT-581 344.
2. KUDIMADA SOMANNA SUBEAYYA,
AGED ABOUT 57 YEARS,
S/O K.B. SOMANNA,
N&N ESTATE, KUTTA VILLAGE,
SHEEMANGALA HOBLI,
KODAGU DISTRICT - 581 344.

... PETITIONERS

(BY SRI VIKRAM HULIGOL, SENIOR COUNSEL FOR
SRI ARNAV A. BAGALWADI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST ENVIRONMENT AND ECOLOGY,
KARNATAKA GOVERNMENT SECRETARIAT,
ROOM NO.442, 4TH FLOOR, M.S. BUILDING,
BENGALURU-560 001.
2. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS-WILDLIFE,
CHOWDAIAH ROAD-NH 4, KODANDARAMPURA,
MALLESHWARAM, BENGALURU-560 012.
3. THE CONSERVATOR OF FORESTS AND DIRECTOR,
RAJIV GANDHI NATIONAL PARK,
ARANYA BHAVANA, HUNSUR TALUK,
MYSORE DISTRICT - 570 001.
4. RANGE FOREST OFFICER,
KALLAHALLI WILDLIFE DIVISION,

KARAMADU CHECKPOST, NITTURU POST,
VIRAJPET TALUK – 571 219.

5. DY. SUPERINTENDENT OF POLICE,
MALABAR ROAD, VIRAJPET,
KARNATAKA – 571 218.
6. DIRECTOR GENERAL OF CIVIL AVIATION,
REPRESENTED BY DEPUTY DIRECTOR GENERAL,
REGIONAL OFFICE AT BANGALORE,
4TH FLOOR, TECHNICAL BLOCK (AAI) HAL AIRPORT,
BANGALORE – 560 017.

... RESPONDENTS

(BY SRI G.V. SHASHIKUMAR, AGA FOR R-1 TO 5;
SRI M.N. KUMAR, CGC FOR R-6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE APPROPRIATE WRIT OR ORDER OR DIRECTION IN THE NATURE OF CERTIORARI QUASHING THE NOTICE RANGE FOREST OFFICER, KALLAHALLA RANGE NO.KWLR/NOTICE/296/2020-21 DATED 14/12/2020 IS PRODUCED AT ANNEXURE-D AND ETC.

THIS PETITION COMING ON FOR *PRELIMINARY HEARING*, THIS DAY, **S.R. KRISHNA KUMAR, J.**, MADE THE FOLLOWING:

ORDER

In this petition, petitioners have sought for the following reliefs:-

- i. *Issue appropriate writ or order or direction in the nature of certiorari quashing the notice Range Forest Officer, Kallahalla Range, No.KWLR / NOTICE / 296 / 2020-21 dated 14/12/2020 is produced at Annexure – D.*
- ii. *Issue appropriate writ or order or direction in the nature of certiorari quashing the notice Range Forest Officer, Kallahalla*

*Range, issued dated 5.01.2021
No.KWLR/MINI/AIRCRAFT/ flying / 2020-
21 produced as Annexure H.*

Or in the alternative

- iii. Issue appropriate writ or order or direction in the nature of mandamus directing the respondents authorities to refrain from interfering in the flying operations of the petitioners in the schedule property, till a final decision is taken in the matter. Issue such other writ or order or direction that this Hon'ble Court may deem fit under the facts and circumstances of the case including the cost of this writ petition to secure the ends of justice.*
- iv. Issue appropriate writ or order or direction in the nature of mandamus directing the 5th Respondent not to interfere in the flying activities of the petitioners herein except in accordance with law.*

2. Heard the learned Senior Counsel appearing for the petitioner and learned Additional Government Advocate appearing for respondents 1 to 5 as well as learned Central Government Counsel for respondent No.6 and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned Senior Counsel for the

petitioner submits that the impugned Notices at Annexure-D dated 14.12.2020 and Annexure-H dated 05.01.2021 issued by respondent No.4 – Range Forest Officer are illegal, arbitrary and vitiated and the same deserve to be quashed. It is submitted that flying activity carried on by the petitioners was for purely recreational and personal purposes and not for commercial purpose and since the same cannot be construed or treated as commercial activity, the respondents are not entitled to interfere with the flying operations of the petitioners. It is also submitted that the Notification dated 25.07.2017 at Annexure-F issued by the Ministry of Environment, Forest and Climate Change is only a draft notification, which was valid for a period of two years and the same does not have any validity or force of law and till a final decision is taken in the matter, respondents are not entitled to prevent the petitioners from carrying on flying activity for recreational or personal purposes.

4. Per contra, learned Additional Government Advocate as well as learned Central Government Counsel, in addition to reiterating the various contentions urged in the statement of objections and referring to the material on

record submit that there is no merit in the petition and the same is liable to be dismissed.

5. The material on record indicates that the Civil Aviation Requirements at Annexure-J dated 28.12.2018 issued by the Ministry of Civil Aviation includes the subject land of the petitioners. It is not in dispute that the respondents 1 to 4 have not submitted their objections to the same so far. Under these circumstances, though several contentions have been urged by both sides in support of their respective claims, without expressing any opinion on the merits / demerits of the rival contentions, we deem it just and appropriate to dispose of the present petition by issuing the following directions.

6. In the result, we pass the following:

ORDER

- i. The petition is hereby *disposed of*.
- ii. The concerned respondent Nos.1 to 4 are directed to forward their objections to the Civil Aviation Requirements at Annexure-J dated 28.12.2018 issued in favour of the petitioners in respect of the subject area claiming it to be an

“Eco-Sensitive Zone” of Nagarahole National Park within a period of fifteen days from today.

- iii. Immediately upon receipt of such objections by respondent Nos.1 to 4, respondent No.6 / Director General of Civil Aviations (DGCA) shall revisit/review Civil Aviation Requirements granted in favour of the petitioners and pass appropriate orders within a period of two months from the date of receipt of said objections, after giving an opportunity to the petitioners and hearing the petitioners in accordance with law and shall also forward the order passed to the DGCA and Ministry of Home Affairs.
- iv. Liberty is reserved in favour of the petitioners to submit their reply to the Notices dated 14.12.2020 and 05.01.2021 and also submit additional representation along with relevant documents to the DGCA.

- v. Meanwhile, the petitioners shall be entitled to fly the subject Micro-light Aircraft strictly in accordance with law once a week till the matter is decided by the respondent No.6.

**SD/-
CHIEF JUSTICE**

**SD/-
JUDGE**

BMC/SRL